

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	CASE NO. 14-36229-H3-7
	§	
MARGON RESOURCES, INC.,	§	(Chapter 7)
	§	
	§	
Debtor.	§	

**TRUSTEE’S MOTION FOR APPROVAL OF SALE OF SCRAP METAL
FREE AND CLEAR OF LIENS AND CLAIMS
UNDER 11 U.S.C. § 363(b) AND (f) BY PRIVATE SALE**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE LETITIA Z. PAUL, UNITED STATES BANKRUPTCY JUDGE:

Allison D. Byman, Chapter 7 Trustee (the “Trustee”) for the Estate of Margon Resources, Inc., and files this Motion for Approval of Sale of Scrap Metal Free and Clear of Liens and Claims Under 11 U.S.C. § 363(b) and (f) by Private Sale (the “Motion”).

Nature of the Request

1. The Trustee seeks approval for the private sale of the Estate’s scrap metal inventory maintained at 1414 Hovas Lane, Brookshire, TX 77423 free and clear of all liens, claims, interests and encumbrances to Holmes Road Recycling Company, Inc. by bill of sale.
2. The sale will be “as is, where is” without representation or warranty of any

kind.

Brief Factual Background

3. On November 6, 2014, the Debtor filed for Chapter 7 bankruptcy protection. Allison D. Byman was appointed Chapter 7 Trustee.

4. The Bankruptcy Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157 and 1334, and 11 U.S.C. §§ 105, 362 and 363.

5. The Debtor scheduled various inventory and equipment. By separate motion, filed contemporaneously herewith, the Trustee seeks to sell the inventory and equipment by public auction conducted by Webster's Auction Palace. In planning for the public auction, the auctioneer and Trustee became aware of the Debtor's ownership interest in certain scrap metal located at the Debtor's prior location at 1414 Hovas Lane, Brookshire, TX. The auctioneer offered to sell the scrap metal by public auction but indicated that a private sale would likely result in a higher recovery to the estate based on the costs to gather, remove and transport the scrap metal from the Debtor's location. The auctioneer located a potential private sale buyer.

6. Specifically, Holmes Road Recycling Company, Inc. has offered to purchase the scrap metal located at 1414 Hovas Lane, Brookshire, Texas for \$2,500. The purchase offer includes the removal of the scrap metal by front end loader and roll off boxes. In addition, the removal will be supervised by the purported purchaser. The auctioneer utilized by the Trustee indicates this offer is a reliable and likely best offer. The auctioneer indicated that he did not believe the scrap metal would sell for more by public auction.

Requested Relief and Authority

7. **Sale of Personal Property.** The terms of the proposed sale to Holmes Road Recycling Company, Inc. for which the Trustee seeks approval are as follows:

(a) Holmes Road Recycling Company, Inc. will pay \$2,500.00 to the Trustee within fourteen days of entry of the order approving this Motion.

(b) Holmes Road Recycling Company, Inc. will purchase the scrap metal as is, where is, with all faults and with no representation or warranty of any nature including but not limited to, the suitability of the scrap metal for any proposed use.

(c) The Trustee will deliver a non-recourse Bill of Sale to Holmes Road Recycling Company, Inc. Holmes Road Recycling Company, Inc. will be responsible for any and all taxes, transfer fees, or any other charges of any nature to transfer title to the scrap metal to it.

8. In the exercise of her business judgment the Trustee has determined that the proposed sale of the scrap metal to Holmes Road Recycling Company, Inc. for the sum of \$2,500.00 on the terms detailed above is the highest and best offer under the circumstances. Such sale will maximize the value to the Estate.

9. Pursuant to 11 U.S.C. § 363(f), the scrap metal will be sold as is, where is, with all faults, free and clear of all liens, claims and other encumbrances of any kind or character, with any valid liens to attach to the sales proceeds, subject to the Trustee's avoidance powers, to the extent necessary. The Trustee is aware of a federal tax lien which attaches to the scrap metal. However, the payment of the IRS's lien is subject to a separately filed stipulation.

10. The Trustee makes no representations or warranties of any nature including but not limited to the suitability of the scrap metal for any proposed use.

WHEREFORE PREMISES CONSIDERED, Allison D. Byman, chapter 7 trustee, prays that this court enter the requested order approving the sale of the scrap metal to Holmes Road Recycling Company, Inc. free and clear of all liens, claims, encumbrances and other interests pursuant to 11 U.S.C. § 363(b) and 363(f), on the terms set forth herein, with all valid liens to attach to the sales proceeds, subject to the Trustee's avoidance powers, to the extent

necessary; and for all other relief to which the Trustee may be justly entitled.

Date: March 26, 2015

/s/ Allison D. Byman
Allison D. Byman, Trustee
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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of March, 2015, a true and correct copy of the foregoing Motion for Approval of Sale of Scrap Metal Free and Clear of Liens and Claims Under 11 U.S.C. § 363(b) and (f) by Private Sale was served on all creditors and Parties Requesting Notice as set forth on the "Service List" attached hereto either electronically by the Court's ECF system or by first class mail, postage prepaid.

/s/ Allison D. Byman
Allison D. Byman